

Rule 52.1. Qualified Residential Treatment Program; Judicial Review

(a) Generally. A child may be placed in a qualified residential treatment program under the conditions set forth in this rule, subject to approval and review by the court.

(b) Definitions.

- (1) “Qualified Residential Treatment Program”** (“QRTP”) means a program licensed as described in 42 U.S.C. § 672(k)(4) to serve children with specific treatment needs who need short term placement out of their homes and qualifies for funding under the federal Family First Prevention Services Act.
- (2) “Qualified Individual”** means a trained professional or licensed clinician who:
 - (A)** is qualified to conduct a QRTP assessment;
 - (B)** is not an employee of DCS unless the requirement is waived pursuant to 42 U.S.C. § 675a(c)(1)(D); and
 - (C)** is not connected to or affiliated with any placement setting in which children are placed by the State unless the requirement is waived pursuant to 42 U.S.C. § 675a(c)(1)(D).
- (3) “QRTP Assessment”** means an evaluation by a qualified individual that assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool as described in 42 U.S.C. § 675a(c)(1).

(c) Time to Complete the Assessment and Documentation. No later than 30 days after the start of the child’s placement in a QRTP, a qualified individual must do all of the following:

- (1)** prepare an assessment of the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool as described in 42 U.S.C. § 675a(c)(1);
- (2)** determine whether the needs of the child can be met in kinship care with a grandparent or another member of the child’s extended family, including a person who has a significant relationship with the child, or in a foster home, and if not, which setting from among the settings specified in 42 U.S.C. § 472(k)(2) would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and
- (3)** develop a list of child-specific short- and long-term mental and behavioral health goals.

(d) QRTP Placement and Approval.

(1) *Notice and Disclosure.*

- (A)** DCS must promptly notify the parties of the child's placement no later than 24 hours, excluding weekends and holidays, after the child is placed in the QRTP. DCS may provide the notice verbally or electronically, including by email. Notice to the child's parents may include the type of placement but must not include the child's new placement address or contact information
- (B)** DCS must file a notice with the court of the child's placement in the QRTP no later than 5 court days after the placement.

(2) *Procedure.*

- (A)** Upon notice by DCS that the child is placed in a QRTP, the court must set a hearing no later than 60 days after the child's placement to assess and review the need for the QRTP placement.
- (B)** DCS must file a motion seeking approval of the child's placement in the QRTP no later than 10 court days after receipt of the QRTP assessment. The motion must contain supporting documentation, including the QRTP assessment. If no party objects to placing the child in the QRTP, the court may rule upon the motion based on the supporting documentation without a hearing.
- (C)** In deciding the motion, whether contested or uncontested, the court must consider:
 - (i)** the QRTP assessment, any related documentation, and additional relevant evidence including testimony and the positions of the parties;
 - (ii)** whether the child, child's family, and individuals who are identified as important to the child have had an opportunity to express their views on the placement decision;
 - (iii)** whether placement of the child in the QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment; and
 - (iv)** whether that placement is consistent with the short- and long-term goals for the child as specified in the child's permanency plan, or if the needs of the child can be met through another available alternative placement.

(3) *Findings.* In a signed minute entry or order, the court must find that:

- (A) the child's needs cannot be met by the child's parent, in kinship care with a grandparent or another member of the child's extended family, including a person who has a significant relationship with the child or in a foster home with support services;
 - (B) a shortage or lack of family home is not the reason why the child is placed in the QRTP;
 - (C) the child's placement in the QRTP provides the most effective and appropriate level of care in the least restrictive environment;
 - (D) the placement is consistent with the child's permanency plan; and
 - (E) if there is reason to know the child is an Indian child, the placement complies with the standards of Rule 50.1.
- (4) **Orders.** The court must enter the following orders:
- (A) approving or disapproving the child's placement in the QRTP;
 - (B) if the child's placement is approved, setting a further hearing as provided in section (e);
 - (C) if the child's placement in a QRTP is not approved, ordering DCS to investigate alternative placements and setting a further hearing if necessary;
 - (D) if it is in the child's best interests, providing for contact with siblings and other family members consistent with the treatment plan.

(e) Continuing Review of QRTP Placement.

- (1) **Procedure.** If the child remains placed in a QRTP for more than 60 days, the court must review the child's placement and follow the procedures set forth in subparts (d)(2) and (d)(3) of this rule at every subsequent review hearing under Rule 58 or permanency hearing under Rule 60, or at a QRTP placement review set by the court. DCS must disclose subsequent reports received from the QRTP to the court and parties no later than 15 days before the QRTP placement review.
- (2) **Findings.** In addition to the findings and orders required by subparts (d)(3) and (d)(4), the court must also make the following findings in a signed minute entry or order:
- (A) ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement with a parent, in kinship care, relative care, or in a foster home;

- (B) order that the specific treatment or service that the child needs is being provided;
 - (C) the length of time the child is expected to need additional treatment; and
 - (D) the efforts made to prepare the child for transition to a parent, kinship care including a person who has a significant relationship with the child, legal guardian, or an adoptive home or foster family home.
- (f) **Discharge.** The petitioner must file a motion for change of physical custody prior to discharge from the QRTP, unless there are exigent circumstances. Under those circumstances, the motion must be filed upon discharge or as soon as practicable.